

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK		
UNITED STATES OF AMERICA,	Plaintiff,	98 Civ. 1101 (ILG)
-against-		To: Hon. Brian Cogan
"JOHN DOE,"	Defendant.	

RECEIVED  
HON. Brian M. Cogan  
MAR 13 2012

## Proposed Subpoena List

On behalf of Richard E. Lerner, we respectfully request that the Court so order subpoenas for the following witnesses, in the event it intends to conduct an evidentiary hearing:

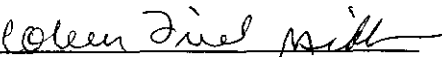
- **Attorney Robert W. Allen**, of Gluck & Allen in Tom's River, New Jersey. If called to testify, it is expected that Mr. Allen greeted Mr. Oberlander in late February 2011, with the salutation, "Hello, Mr. Roe." It is expected that Mr. Allen will testify that a member of his firm tracks cases involving secret dockets, and when after the February 14, 2011 decision was circulated on the internet, he knew immediately that the attorney in the case was Mr. Oberlander. Mr. Allen is also expected to testify that at least one other person in the courtroom heard him refer to Mr. Oberlander as "Mr. Roe."
- **Benjamin Weiser**, of the New York Times. If called to testify, it is expected that Mr. Weiser will, if he does not refuse to testify, state that he ascertained the identity of "Richard Roe" on his own, and that neither Mr. Lerner nor Mr. Oberlander ever told him that he was in fact one and the same as "Richard Roe."
- **Nader Mobargha**, counsel for "John Doe." It is expected that he will testify that he submitted his letter dated August 11, 2011 to Judge Buchwald identifying "*Richard Roe*" as the plaintiffs' attorney in the proceedings before Judge Buchwald, wherein Frederick M. Oberlander was the docketed counsel of record for the plaintiffs. It is expected that he will testify that he knew or should have known that doing so could very well establish that "Richard Roe" and Frederick M. Oberlander were one and the same. We also anticipate that Mr. Mobargha will testify that there was no decretal language in any order that barred him from revealing in a publicly docketed letter that "Richard Roe" was the attorney for the plaintiffs in the matter pending before Judge Buchwald.

- **Walter Saurack**, of Satterlee, Stephens, Burke & Burke LLP. It is expected that Mr. Saurack will testify that he was made aware by counsel for John Doe that “Richard Roe” and Frederick M. Oberlander were one and the same.
- **BusinessWeek / Bloomberg**. In the event it is claimed that a “sealed” complaint was given to the New York Times, BusinessWeek’s testimony will be germane, because it will show, we believe, that the government itself already leaked the complaint to BusinessWeek. In an article dated November 9, 1998, entitled “The Case of the Gym Bag that Squealed,” which remains available on the internet, it is stated that it is in possession of a “sealed” criminal complaint regarding Sater. Presumably, Sater did not leak it to BusinessWeek. Thus, it will be necessary to call BusinessWeek to testify to show that the criminal complaint against Doe was a genie that got out of the bottle long before Roe was given it by Bernstein.

Dated: White Plains, New York  
March 12, 2012

Respectfully submitted,

WILSON ELSEER MOSKOWITZ  
EDELMAN & DICKER LLP

By   
Coleen Friel Middleton  
Attorneys for Richard E. Lerner  
3 Gannett Drive  
White Plains, NY 10604-3407  
Coleen Friel Middleton  
914-872-7778 (Direct)  
914-323-7000 (Main)  
914-323-7001 (Fax)  
[coleen.middleton@wilsonelser.com](mailto:coleen.middleton@wilsonelser.com)